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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7575 OF 2007

Balbirsingh Ratansingh Matharoo
& anr. ... Petitioners

V/s

The State of Maharashtra & ors. ... Respondents

Mr. A.M.Sarogi with Ms.A.S.Gupta i/by Kranti Anand for the petitioners.

Mr. V.S.Gokhale, A.G.P. for the respondent No.1.

CORAM: J.N.PATEL AND
SMT. NISHITA MHATRE, JJ.

DATED: 14TH DECEMBER, 2007.

P.C.:

1. Heard.

2. The petitioners have challenged the recovery proceeding initiated against them on the ground that they have no concern with M/s.Dashmesh Engineering Pvt. Ltd. against whom Award has been passed.

3. A dispute was referred to the Labour Court at Thane on a Reference being made by the Deputy Commissioner of Labour, for adjudicating the demand of a workman for reinstatement in service with full back wages and

continuity. It was the case of the workman that he has been working in M/s.Dashmesh Engineering Pvt. Ltd. since 19.1.1994 as a Fitter on wages of Rs.70/- per day and that his services have been terminated without following due process of law by not allowing him to resume duty. During the proceeding before the Labour Court, the first party i.e. M/s. Dashmesh Engineering Pvt. Ltd. remained absent and, therefore, the Reference was allowed in favour of the workman. Pursuant to the award, a certificate for recovery was forwarded to the respondent No.1 Tahsildar, Ulhasnagar-4 for recovery of a sum of Rs.1,55,402/-. It appears from the record and the affidavit in reply filed by the Tahsildar that the petitioners have changed the name of the firm to M/s.Dashmesh Industries from M/s. Dashmesh Engineering Pvt. Ltd. The Tahsildar was successful in attaching the property of the petitioners. The petitioners time and again assured to discharge their liability. On one occasion even a sum of Rs.50,000/- was paid by cheque which was presented to the Bank, but was dishonoured on account of insufficient fund.

4. Learned counsel for the petitioners has taken a stand that the petitioners and their firm has nothing to do with M/s.Dashmesh Engineering Pvt. Ltd. and that the recovery proceeding is unwarranted and the

attachment is illegal and they are forced to issue a cheque in the sum of Rs.50,000/- under the threat of arrest.

5. We find that the Tahsildar has done necessary enquiry and found that the petitioners are the same persons against whom the recovery is to be made as per the Award. We, therefore, do not find any merit in the petition.

6. Petition stands dismissed with costs which is quantified Rs.5,000/- which the Collector shall recover alongwith the dues pursuant to the Award passed by the Labour Court.

7. After we disposed of the petition, the learned counsel for the petitioner submits that the recovery be stayed for some time to enable the petitioners to approach the Labour Court and that the observations made by this Court should not come in the way of the petitioners in the matter.

8. We find that such a concession cannot be extended to the petitioners. Therefore, oral request is not accepted.

(J.N. PATEL, J.)

(SMT. NISHITA MHATRE, J.)